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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,542	02/09/2004	Lau Man Yiu	60036.0008US01	8963

23552 7590 03/31/2006

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 03/31/2006

Remailed
3-31-06

Please find below and/or attached an Office communication concerning this application or proceeding.



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Office Action Summary

Application No.

10/774,542

Applicant(s)

YIU, LAU MAN

Examiner

Gary C. Hoge

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____



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DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 19 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original claims were directed to the embodiment in which the power source was located within the recessed area. The embodiment in which the power source is located outside the recessed area is a patentably distinct embodiment.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 19 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5, 9, 11, 12 and 15-18 rejected under 35 U.S.C. 103(a) as being unpatentable over DeWitt (6,776,505) in view of Visagie (5,806,223).

DeWitt discloses an illuminated display apparatus 10 comprising: a frame member 12 having an exterior side, an interior side, an inner perimeter, and a center opening defined by the inner perimeter; a housing 22 mounted to the frame member and extending outward from the interior side of the frame member, the housing including: a rear wall (Fig. 5), the rear wall

Art Unit: 3611

having an edge extending around the perimeter of the rear wall; a side member (Fig. 5) having opposing ends, the first end mounted to the edge of the rear wall and the second end disposed adjacent the interior side of the frame member; and a recessed area (Fig. 5) defined by the rear wall and the side member, wherein the recessed area has a depth sufficient for containing a three-dimensional object; a light source 42 mounted within the recessed area, the light source would illumine a three-dimensional object contained within the recessed area of the housing, if it contained one; a transparent plate (Fig. 5) located within the center opening of the frame member, the transparent plate spaced apart from the rear wall of the housing, wherein the interior side of the frame member further comprises a notch portion (Fig. 5) for retaining the transparent plate, the notch portion extending along the inner perimeter of the frame member; and a power source 18 conductively connected to the light source for illuminating the light source. However, the second end of the side member is attached to the frame member (Fig. 5), rather than bearing against the transparent plate. Visagie teaches that it was known in the art to have the end of a side member bear against a transparent plate in order to hold that plate in position against a frame (see the right side of Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the end of the side member disclosed by DeWitt bear against the transparent member, as taught by Visagie, in order to hold the transparent member in place against the frame.

Regarding claim 2, the bottom of housing 22 constitutes a means for supporting a three-dimensional object.

Regarding claim 5, the plurality of flanges shown in Figs. 5 and 6 constitute a plurality of bracket members attached to the side member.

Art Unit: 3611

Regarding claims 15 and 17, see Fig. 6 and note battery 50.

Regarding claims 16 and 18, see Figs. 1 and 2.

4. Claims 1-3, 5, 6, 9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shroyer (4,353,327) in view of Lin (4,942,685) and Visagie (5,806,223).

Shroyer discloses a display apparatus comprising: a frame member 12 having an exterior side, an interior side, an inner perimeter, and a center opening defined by the inner perimeter; a housing 10 mounted to the frame member and extending outward from the interior side of the frame member, the housing including: a rear wall 22, the rear wall 22 having an edge extending around the perimeter of the rear wall; a side member 14, 16, 18, 20 having opposing ends, the first end mounted to the edge of the rear wall 22 and the second end disposed adjacent the interior side of the frame member 12; and a recessed area (Fig. 3) defined by the rear wall 22 and the side member 14, 16, 18, 20, wherein the recessed area has a depth sufficient for containing a three-dimensional object 68; a transparent plate 24 located within the center opening of the frame member 12, the transparent plate 24 spaced apart from the rear wall 22 of the housing 10, wherein the interior side of the frame member further comprises a notch portion (col. 2, lines 56-60) for retaining the transparent plate 24, the notch portion extending along the inner perimeter of the frame member 12. However, Shroyer does not disclose a light source mounted within the recessed area. Lin teaches that it was known in the art to provide a light source in the recessed area of a shadow-box. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the display apparatus disclosed by Shroyer with a light source and a power source for the light source, as taught by Lin, in order to illuminate the display. Further, the side member disclosed by Shroyer bears against mounting strips 42, which

Art Unit: 3611

themselves bear against the transparent plate 24. Visagie teaches that it was known in the art to have the end of a side member bear directly against a transparent plate in order to hold that plate in position against a frame (see the right side of Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the end of the side member disclosed by Shroyer bear directly against the transparent member, as taught by Visagie, in order to obviate the need for separate mounting strips.

Regarding claim 3, see shelf 74.

Regarding claim 5, strips 42 comprise a plurality of brackets situated as claimed.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shroyer (4,353,327) in view of Lin (4,942,685) and Visagie (5,806,223), as applied to claim 2, above, and further in view of Herrin et al. (3,503,147).

Shroyer discloses the invention substantially as claimed, as set forth above, including a three-dimensional object 52 attached to the rear wall 22 of the housing 10. However, Shroyer does not disclose how the object is attached. Herrin teaches that it was known in the art to attach a display to the back wall of a shadow box via adhesive. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the display element 52 disclosed by Shroyer to the back wall of the display using adhesive, as taught by Herrin, in order to hold the element permanently in place.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shroyer (4,353,327) in view of Lin (4,942,685) and Visagie (5,806,223), as applied to claim 6, above, and further in view of Jenkins (5,426,573).

Art Unit: 3611

Shroyer, as modified, discloses the invention substantially as claimed, as set forth above.

However, the light source is LED, rather than a fluorescent lamp. Jenkins teaches that a fluorescent lamp is a functionally equivalent structure known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the LED lamp disclosed by Shroyer, as modified, with a fluorescent lamp, as taught by Jenkins, as an obvious matter of choice in design, based on such factors as cost and availability of parts to the designer.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shroyer (4,353,327) in view of Lin (4,942,685) and Visagie (5,806,223), as applied to claim 6, above, and further in view of Hermann (5,555,654).

Shroyer, as modified, discloses the invention substantially as claimed, as set forth above. However, the light source is LED, rather than a flexible light strip covered by a heat resistant material. Hermann teaches that a flexible light strip 51 covered by a heat resistant material 52 to absorb the heat of the light source is a functionally equivalent structure known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the LED lamp disclosed by Shroyer, as modified, with a flexible light strip covered by a heat resistant material, as taught by Hermann, as an obvious matter of choice in design, based on such factors as cost and availability of parts to the designer.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shroyer (4,353,327) in view of Lin (4,942,685) and Visagie (5,806,223), as applied to claim 1, above, and further in view of O'Brill (4,424,449).

Shroyer, as modified, discloses the invention substantially as claimed, as set forth above. However, the transparent plate is a sheet of glass. O'Brill teaches that acrylic is a functionally equivalent material known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the glass sheet disclosed by Shroyer with an acrylic sheet, as taught by O'Brill, as an obvious matter of choice in design, based on such factors as cost and availability of the materials to the designer.

9. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shroyer (4,353,327) in view of Lin (4,942,685) and Visagie (5,806,223), as applied to claim 1, above, and further in view of DeWitt (6,776,505).

Regarding claims 15 and 17, Shroyer, as modified, discloses the invention substantially as claimed, as set forth above. However, the power source is mounted outside of the housing. DeWitt teaches that it was known in the art to mount a power source inside the housing (see Fig. 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the power source disclosed by Shroyer, as modified, inside the housing, as taught by DeWitt, in order to protect the power source, and to keep it hidden from view.

Regarding claims 16 and 18, Shroyer, as modified, discloses the invention substantially as claimed, as set forth above. However, the power source is a battery. DeWitt teaches that it was known in the art to use an alternating current power supply for illuminating a display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an alternating current power supply to illuminate the display disclosed by Shroyer, as modified, as taught by DeWitt, in order to avoid having to replace depleted batteries.

Art Unit: 3611

Response to Arguments

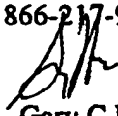
10. Applicant's arguments with respect to claims 1-9 and 11-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary C Hoge
Primary Examiner
Art Unit 3611

gch